

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

GREGORY ATWATER,

Plaintiff,

v.

Case No. 19-cv-363

BONNIE GUGLER, *et al.*,

Defendants.

ORDER

On August 19, 2021, Gregory Atwater, who is represented by counsel, filed a pro se motion to amend the complaint (ECF No. 135) and a pro se motion for reconsideration of the dismissal of his state law claim (ECF No. 136). In a declaration accompanying both motions, Atwater states he sent a letter on June 15, 2021, and another on August 2, 2021, to his lawyer, who is representing him *pro bono*, regarding assistance with filing these motions. (ECF No. 137, ¶ 2.) When he did not receive a response to his letters, he called his lawyer on August 5, 2021. (*Id.*, ¶ 3.) Atwater's attorney agreed to try to set up a Zoom visit within a week to discuss the motions. (*Id.*) According to Atwater, he has yet to do so, so he filed the motions on his own. (*Id.*)

On August 23, 2021, the defendants that are represented by the Wisconsin Department of Justice (State Defendants) filed a motion to strike Atwater's *pro se*

motions. (ECF No. 138.) They argue that, because Atwater is represented by counsel, the court should not accept any motions he files on his own. The court agrees. Litigants are generally not permitted to submit *pro se* motions or briefs while they are represented by an attorney. *Allison v. City of Bridgeport, Ill.*, 577 Fed. Appx. 603, 604 (7th Cir. 2014) (citing *United States v. Gwiazdzinski*, 141 F.3d 784, 787 (7th Cir. 1998)); *Hayes v. Hawes*, 921 F.2d 100, 102 (7th Cir. 1990). The court grants the motion to strike.

The court also advises Atwater to be patient with his *pro bono* counsel. With pandemic restrictions in place both at the prison and in many workplaces, there are currently many obstacles to communication. Also, Atwater's *pro bono* attorney is carving out time from his regular workload to represent Atwater at no cost to him. As long as Atwater is represented, his attorney should be the one communicating with the court about issues in his case. If Atwater is unhappy with his representation, he may terminate his representation. But Atwater should be advised that the court has already recruited two attorneys to assist him and, given the lack of attorneys willing to take *pro bono* appointments, it is unlikely the court will be able to recruit a third attorney to represent him.

IT IS HEREBY ORDERED that the State Defendants' motion to strike (ECF No. 138) is **GRANTED**.

IT IS FURTHER ORDERED that Atwater's motion to amend the complaint (ECF No. 135) and motion for reconsideration (ECF No. 136) are **STRICKEN** from the record.

Dated at Milwaukee, Wisconsin this 23rd day of August, 2021.

BY THE COURT

A handwritten signature in black ink, appearing to read "William E. Duffin". The signature is fluid and cursive, with "William" and "E." on the first line and "Duffin" on the second line.

WILLIAM E. DUFFIN
United States Magistrate Judge